

TROY LAW, PLLC

ATTORNEYS / COUNSELORS AT LAW

Tel: (718) 762-1324 troylaw@troypllc.com Fax: (718) 762-1342
41-25 Kissena Boulevard, Suite 103, Flushing, NY 11355

October 16, 2022

Via ECF

Hon. Gregory H. Woods, U.S.D.J.
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

MEMORANDUM ENDORSED

Re: Motion for Extension of Time to File Opening Brief
Zhang v. Four Seasons Beauty Spa, Inc., No. 18-cv-08259 (GHW), (S.D.N.Y.)

Your Honor,

We represent the Plaintiff in the above-referenced matter. We write respectfully and in accordance to your Honor's Individual Rules at I.E. to submit an untimely request for an extension of time from October 7, 2022 to October 21, 2022 for the filing of the opening brief addressing the issue of whether the Affidavit of Service can be considered notwithstanding Plaintiff's failure to bring it up during the evidentiary hearing. Defendants' counsel does not consent to this request. The reason given for the non-consent is that it is made at a late time and the reasons were not unknown to my firm when the briefing schedule was set at open court.

This is Plaintiff's first request and granting such a request will not prejudice Defendants, who were in default and who moved to dismiss the case after a lengthy and prolonged period of non-appearance on the basis that service is improper, despite having actual and constructive notice of the lawsuit, and what has been shown during the evidentiary hearing.

The basis for the request is as follows: my boss and father John Troy is overseas due to medical reasons and the undersigned is charged with ensuring the continual delivery of the cases for Troy Law clients for this and last week. Mr. Troy was in the hospital due to accelerated heart rate late last week. The undersigned thus has not taken a single day off and has diligently worked to meet the court deadlines before seeking extensions. I believe that the extension of the deadline till October 21, 2022 to allow the undersigned to draft a response in light of legal issues that I am not familiar with and for Mr. Schweitzer to review is not an unreasonable request in light of circumstances beyond my control. Mr. Schweitzer, who has appeared before your Honor, had religious holidays prior to the expiration of the due date, including Yom Kippur (the holiest of the High Holidays) on October 4 and 5, Sukkot between October 9 and 11, and Simchat Torah between October 16 and 18, and appeared before Judge Oetken for a jury trial on October 11 and 12.

We thank the Court for its prompt attention to and kind consideration of this matter.

Hon. Gregory H. Woods, U.S.D.J.

October 16, 2022

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Respectfully submitted,

TROY LAW, PLLC

/s/ Tiffany Troy

Tiffany Troy

John Troy

Aaron B. Schweitzer

Attorney for Plaintiffs

cc:all counsels of record


Application denied. Plaintiff's brief was due no later than October 7, 2022. Dkt. No. 211. This request for an extension was thus made nine days after the deadline set by the Court. As the Court's individual rules indicate, any requests for extension must be made two days prior to any deadlines. See Individual Rules in Civil Cases of Hon. Judge Gregory Woods 1(E). As Defendants note, moreover, several of the excuses cited by Plaintiff for the untimely request for an extension – including the Jewish holidays and Mr. Schweitzer's appearance in a trial – were both known to Plaintiff when the Court entered its briefing schedule, and only arose as issues after the original briefing deadline had passed. The Court will rule on Defendant Yan Chao Zhang's motion to dismiss based on the evidence presented by the parties at the October 3, 2022 conference.

The Clerk of Court is directed to terminate the motion pending at Dkt. No. 212.

SO ORDERED.

Dated: October 17, 2022

New York, New York



GREGORY H. WOODS
United States District Judge